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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 48/AIL/Lab./S/2024,
Puducherry, dated 23rd April 2024)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 06/2017, dated 28-02-2024 of the Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. Sri Manakula Vinayagar Educational Trust, Madagadipet, Puducherry and its workman Thiru P. Anandhan, over reinstatement and compensation has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the Notification issued in Labour Department's G.O. Ms. No. 20/9/Lab./L, dated 23-05-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. SANDIRAKUMARAN,
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT PUDUCHERRY**

*Present : Tmt. G.T. AMBIKA, M.L., PGDCLCF.,
Presiding Officer.*

Wednesday, the 28th day of February, 2024

**I.D. (L) No. 06/2017
CNR. No. PYPY06-000100-2017**

Thiru Anandhan,
S/o. Perumal,
No. 24, Eswaran Koil Backside,
M.G.R. Nagar, Valavanur and Post,
Villupuram District. . . Petitioner

Versus

The Managing Director,
Sri Manakula Vinayagar Educational Trust,
No. 23, Mariamman Koil Street,
Madagadipet, Puducherry. . . Respondent

This Industrial Dispute coming on 27-02-2024 before me for final hearing in the presence of Thiru D. Ravichandiran, Counsel for the Petitioner, Thiruvalargal L. Sathish, S. Ulaganathan, T. Pravin,

S. Velmurugan, V. Veeraragavan and E. Karthik, Counsels for the Respondent and after hearing the both sides, and perusing the case records, this Court delivered the following:

AWARD

This Industrial Dispute arises out of the reference made by the Government of Puducherry *vide* G.O. Rt. No. 22/AIL/LAB/T/2017, dated 24-02-2017 of the Labour Department, Puducherry, to resolve the following dispute between the Petitioner and the Respondents, *viz.*

(a) Whether the industrial dispute raised by Petitioner Thiru P. Anandhan, Puducherry, against the Management of M/s. Sri Manakula Vinayagar Educational Trust, Madagadipet, Puducherry, over reinstatement and compensation and to issue Service Certificate is justifiable or not? If justified, what relief the Petitioner is entitled to?

(b) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. The averments set forth in the claim petition is as follows:

The Petitioner was appointed as a Junior Assistant on 14-02-2005 *vide* appointment order, dated 04-02-2005 in the Respondent management. Initially he has been entrusted with charge in the Pharmacy section and rendered his service in an unblemished manner and up to the expectation/satisfaction of the employer. By appreciating his service, Respondent also issued a Service Certificate, dated 07-03-2008. Subsequently he has been transferred to Venkateswara College of Education and Venkateswara Teacher Training Institute on 17-09-2008. At the time of his initial appointment his salary was fixed at ₹ 2,500 per month as a consolidated pay. His responsibility was fixed relating to clerical work in the Hospital and Medical College and the works allotted to time to time. He never discharged any work in the supervisory cadre. After completion of the period of one year he was not disturbed at any stage and discharged his work in a regular manner till 25-08-2011 the date on which he was relieved from his duty in a abrupt manner without any notice of termination.

(ii) The Petitioner has to be construed as a regular worker and his nature of work has not been altered and it deems to be that he had a continuous duty from the date of appointment until he was relieved. Till the date of his relieving order there is no whisper from the management about his unsatisfactory work

if, any but, all of a sudden he has been relieved from his duty without any reason. Even after he was relieved from his duty the Chairman and Managing Director of the Respondent Trust issued a Service Certificate, dated 14-06-2014 by appreciating his unblemished service. Sudden/surprise relieving order of the Petitioner by the management/respondent is arbitrary and against the natural justice.

(iii) The Petitioner made several attempts and approached Vice-Chairman, Managing Director, Administrative Officer several times for his employment but, all of his efforts ended in vain. From 26-08-2011 to July 2014, this Petitioner approached all the authorities concerned in the Respondent Management for his employment but, they one way or other misguided the Petitioner, hence, this Petitioner issued an Advocate Notice, dated 12-07-2014 informing the Management that he will raise industrial dispute against the management.

(iv) Even after this the Management has not come forward to offer employment to the Petitioner. This Petitioner also approached Legal Services Authority, Villupuram and on the direction given by the Legal Services Authority, Villupuram, he appeared before the Legal Services Authority, Puducherry and in the proceedings before the Legal Services Authority from 27-01-2015, the Respondent Management initially come forward to offer employment to this Petitioner and subsequently *vide* their letter, dated 08-04-2015 negated the request of the Petitioner and raise several allegations against this Petitioner in a surprise manner for the 1st time before the said authority. The Legal Services Authority, Puducherry, also advised the Respondent management to consider the grievance of the petitioner but, the Respondent Management failed to Act as per their advice. Hence, they advised this Petitioner to approach the proper form for appropriate relief. Even after this, the Petitioner submitted a representation, dated 12-10-2015 to the respondents, requesting them to consider the grievance of the Petitioner and requested them to offer employment to him. They received the said representation on 13-10-2015 but, have not considered the said representation till this date and also not come forward to issue any reply. Hence, this Petitioner submitted a representation, dated 16-03-2016 before the Labour Officer (Conciliation), Puducherry, for reinstatement into service and compensation with Service Certificate in the said proceedings this respondent appeared and raised/leveled several charges in a surprise manner for the purpose to defeat the claim of the petitioner

in an unlawful manner. All the charges leveled against the Petitioner are not sustainable and only created to defend/defeat the claim of the Petitioner. The Labour Officer (Conciliation), Puducherry, also taken effective steps to settle the matter in an amicable manner, but, due to adamant attitude of the Respondent, matter ended in failure and hence, he referred the dispute for adjudication.

3. *The averments set forth in the counter statement filed by the respondent is as follows:*

The reference per se is bad and is liable to be rejected on certain basic and preliminary legal infirmities. Very description of the Respondent as present industrial dispute against the Respondent as Sri Manakula Vinayagar Educational Trust Private Limited is wrong. The Respondent is a registered Educational trust and is not a private limited entity. Hence, the very reference with mis-description of Respondent is wrong.

(ii) The Petitioner has no *locus standi* to raise the industrial dispute against the Respondent as even according to Petitioner he was last employed at Venkateswara College of Education, Kalitheerthalkuppam, Puducherry. The Petitioner was appointed by the Managing Director of Sri Manakula Vinayagar Medical College and Hospital on 14-02-2005. He was transferred to Venkateswara College of Education by Managing Director of Sri Manakula Vinayagar Medical College and Hospital on 17-09-2008. Petitioner was relieved from services by Managing Director of Venkateswara College of Education. Though both the institutions where Petitioner was appointed and relieved are running under the aegis of Respondent, they are two separate, independent, self financing institutions both of those institutions are separately registered legal entity with independent administrative setup and without any functional integrality. Even, the Respondent trust does not interfere into the day to day administration of the two institutions. The Respondent Trust or its Trustees or administrators does not play any role in either appointment or dismissal of any of the employees of the said institutions in their capacity as Trustees or Administrators of Trust. Therefore, the Petitioner cannot raise any industrial dispute against the Respondent Trust as there is privity between the Petitioner and the Respondent. The Petitioner ought to have raised the dispute against Venkateswara College of Education. At the least, the petitioner ought to have made the said institution a party to the industrial dispute, which has not been done by him. Hence, no relief as claimed by the Petitioner can be granted by this Court against the Respondent Trust.

(iii) The Petitioner was never terminated from the services of Venkateswara College of Education, Puducherry, for him to claim wrongful termination, reinstatement or compensation. He was only relieved from his services by the said institution and at his own request, which was done by him to avoid legal actions that were contemplated by Respondent against him for multiple misconducts and criminal actions during his tenure of employment at Venkateswara College of Education and Sri Manakula Vinayagar Medical College and Hospital. The Petitioner had voluntarily put down his services but, without any written letter of registration, which is being taken undue advantage of by him at this stage.

(iv) After voluntarily quitting the employment of Respondent and obtaining a clean relieving order with no adverse remarks, Petitioner got multiple employments with various other educational and business entities. Petitioner joined as clerk in Sri Venkateswara Medical College Hospital and Research Center, Ariyur and worked there for few months. Even, there the Petitioner left the services on his own without submitting resignation letter and then join Devi Oil Industry, Thirubuvanai. He worked there for close one year or so and thereafter, once again left the said company without submitting resignation and joined VSB Paper Products, P.S. Palayam, Puducherry and worked as Accounts Assistant from September, 2014 to June, 2015. The Petitioner is now employed in Anbu Paulson's Anbu Cement, Anbu Nagar, Sethurapet Industrial Estate, Thuthipet, Puducherry, with effect from 17-02-2016 to till date on monthly salary of ₹ 10,000 as ascertained from the firm. The Petitioner has secured all these employment only by showing the clean and unblemished relieving order by Venkateswara College of Education, Puducherry. Thus, the Petitioner had actually voluntarily left the services of Venkateswara College of Education, Puducherry, to avoid and escape disciplinary and criminal actions by the said institution and after remaining quite for more than 2½ years, had started making claims of illegal termination with intentions of extracting and extorting money from the Respondent Trust. Since, the Petitioner was never terminated from services there is no question of his reinstatement. Hence, there is absolutely no industrial dispute to adjudicate by this Court.

(v) The Petitioner was appointed on 14-02-2005 as Junior Assistant by Sri Manakula Vinayagar Medical College and Hospital and he was posted in Pharmacy Section in the said Hospital. During Petitioner's tenure as Junior Assistant in the Free Pharmacy

Section, his job was to generate computerized bill for the medicines prescribed. He was always reported to be impertinent and arrogant and frowned on the patients crowding the counter in the free pharmacy.

(vi) Several patients and pharmacists had lodged complaint against petitioner for his rough behavior. The Petitioner's employer and his immediate superiors had orally warned him several times also issued a Memorandum once to that effect Memorandum No. SMVMCH/A3/Esst./Junior Assistant/2008-2009, dated 16-05-2008. But, the Petitioner did not change his attitude and therefore, Petitioner's employer thought it appropriate to place Petitioner at a place where he will have to have lesser interaction with people. Thus, he was transferred from Free Pharmacy and posted to Venkateswara College of Education, Kalitheerthalkuppam, Puducherry on 17-09-2008 in the same capacity.

(vii) While, the Petitioner was working in the Venkateswara College of Education his behavior became even worse. Petitioner had always exhibited short temperateness and would fight with even co-worker and his superiors for trivial issues and will disobey the orders of his Principal. He has performed work according to his whims and fancy would never listen to the instructions of his superior. He poked his nose into affairs of faculty members and students which he is not supposed to do in his official capacity as a clerical staff. Numerous counselling and instructions were given to Petitioner by his immediate seniors and even the Principal of the institution but, he did not correct himself.

(viii) On 26-02-2009 Petitioner prepared printing charges bill of Respondent's College duly enclosing the duplicate bills of the printing press. When that claim was rejected, he got certification from the Principal stating that the original bills were irrecoverably lost. On the basis of the certification about the loss of original printing bills, the claim supported by the duplicate bills was passed and payment made to the printing press. However, after a month or so, it was notice from the office records that the original bills, were claimed in recoupment of permanent imprest of the B.Ed., College and payment received by the Principal of Venkateswara College of Education through petitioner. Knowing fully well about the recoupment of Permanent Imprest before hand, the claim was preferred twice once through payment vouchers enclosing original bills in recoupment of imprest and another one through the printing press claim in a contingent bill endorsing payment to the printers. It was thus a clear case of making illegal enrichment by forgery and fudging records.

(ix) On another occasion, Petitioner instigated a student Sundari to lodge a false police complaint against Principal of Venkateswara College of Education, Puducherry, Mrs. Nalini P. Rajagovindan who us purported to scold the student in an abusive language and made her wait for getting her original Certificates from the college office. It was noticed from the FIR of Mrs. Sundari, B.Ed., student that it was the Petitioner who was instrumental in brain washing the girl to lodge complaint against the Principal and he even stood as witness to the false accusation of the student complaint against the principal lodged in Thirubuvana Police Station. The Police complaint lodged by Mrs. Sundari gave untold sufferings to the Principal of the Respondent's institution. However, it was proved that the complaint was a fabricated one at the instigation of the Petitioner. After this incident since the Petitioner has gone overboard with his misconducts and had gone to the extent of causing serious prejudice to his own employer, the administration of Venkateswara College of Education, Puducherry issued Memorandum No. VCE/A3/Esst./Junior Assistant/Disciplinary Action/2011-2012, dated 10-08-2011 specifying in detail various misconducts committed by petitioner and calling upon him to submit his explanation to such specific charges. It was at this juncture that Petitioner profusely apologized for all his misdeeds (though initially he was extremely violent and misbehaving with the Principal) and offered to quit his job instead of facing the charges leveled against the Petitioner and undergoing disciplinary proceedings. He requested his management to relieve him with dignity to enable him have dignified employment with some other concern. The employer of Petitioner, after due deliberation and considering the fact Petitioner was married man with minor children took sympathy on him and agreed to relieve him on his request and discharge him from services based on his oral resignation of job. Only in this background, Petitioner was relieved of his duties from Venkateswara College of Education on 25-08-2011, which facilitated the Petitioner to secure decent employment with other employers.

(x) Sometimes in June 2014, he requested the Respondent to issue Service Certificate for some undisclosed purpose. Respondent genuinely wanted to help Petitioner and since the Petitioner was relieved from services on his own accord, a Service Certificate was given to him on 14-06-2014. As the Respondent did not carry any grudge or ill-will against Petitioner, it issued a good character certificate to Petitioner. The fact that Petitioner was given Service Certificate by itself is a proof of the

fact that Petitioner was not terminated from service but, he was relieved on his request. This doesn't mean that he had performed unblemished service during his tenure in the Medical College and B.Ed., College and the respondent do not want to spoil Petitioner's future carrier by means of issued unsatisfactory Service Certificate to him. On humanitarian consideration only Petitioner was relieved of his duties and that too on his request.

(xi) The Petitioner, has issued a legal notice on 12-07-2014, *i.e.*, immediately after getting his Service-cum-Conduct Certificate, dated 14-06-2014 from the Respondent management seeking either reemployment or on payment of compensation of ₹ 25,00,000 by trying to take advantage of Management's sympathy and in order to extricate money. The very language and tenor of the notice suggest that Petitioner had worked on a well calculated plan. He had avoided any kind of action against him by his employer by requesting him to be relieved from services. Thereafter, he obtained decent employment with other employers and after waiting for close to 3 years approached the Respondent and induced it to issue certificate to him. Immediately thereafter, he issued legal notice demanding huge compensation. Petitioner did not stop with that he gave a false representation to the Hon'ble Chief Minister of Tamil Nadu and Puducherry, Hon'ble Lieutenant-Governor of Puducherry and Legal Aid Commission *vide* Petition No. 2014/797361/CP, dated 16-08-2014.

(xii) On the basis of petition, dated 16-08-2014 direction was given by the CM Cell to Deputy Superintendent of Police, Villupuram, the Inspector of Police, Valavanur Police Station, Valavanur, Tamil Nadu, to enquire into the complaint. The employer of Petitioner were summoned and numerous occasion by the police officials, subjecting them to untold sufferings. However, Police enquiry revealed the truth where the Petitioner have a statement on 07-09-2014 that he and his family members are quite safe and they have not received any threat from his employer. Hence, all further actions were dropped by the Police. This was an unwarranted action on the part of the petitioner which caused unnecessary probe by the Police Department of Government of Tamil Nadu and spoil the reputation of the Educational and Medical institutions of Respondent among the public. This fabricated incident clearly revealed petitioner's criminal mind. The petitioner relentlessly approached Puducherry State Legal Aid Commission to intervene in his matter for getting compensation applied and submitted Petition No. 117/2014, dated 12-07-2014.

(xiii) The Petitioner was relieved on 25-08-2011 on his request. If, the Petitioner had not requested his employer to relieve him from services, a full fledged Domestic Enquiry would have been conducted by his employer and the charges against him would have been proved. Having prevented the employer from conducting the enquiry, Petitioner cannot take advantage of his own conducts and claim that no enquiry was conducted. In any event, the employer of Respondent is still entitled to prove all the charges of misconduct against the petitioner before this Court and the Petitioner cannot claim reinstatement only because no enquiry was conducted against him. The respondent therefore, reserves its right to let in oral evidence before this Court to prove the charges of grave misconducts committed by Petitioner as per the charge sheet, dated 10-08-2011. Hence, prayed for dismissal of the claim petition.

4. Point for determination:

1. Whether the industrial dispute raised by the petitioner as against the respondent trust is maintainable or not maintainable?

2. Whether the dispute raised by the petitioner as against the respondent trust over his non employment is justified?

3. Whether the petitioner is entitled for the reliefs as claimed in the claim petition?

5. On Points 1 to 3:

The petitioner himself examined as PW.1 and Exs.P1 to P12 were marked and through cross examination Exs.R1 to R3 were marked. On the Respondent side Mr. Datchinamurthy, the Registrar of Respondent management was examined as RW.1 and through him Exs.R4 to R17 were marked. Mr. Rajasekaran was examined as RW.2 and Mr. R. Prabu was examined as RW.3 and Exs.R18 and R19 marked through him.

6. The contention of the petitioner is that he was appointed as a junior Assistant in the respondent management on 14-2-2005 and thereafter, he was rendering his service without any unblemished records and on 07-03-2008 the respondent had issued service certificate appreciating the character and conduct of the petitioner and subsequently on 17-09-2008 the respondent has transferred the petitioner to Venkateswara College of Education and Venkateswara Teacher Training Institute and thereafter, on wards the petitioner was discharging his work as a regular worker

and at any point of time the Petitioner had worked in supervisory capacity and while so the petitioner was relieved from his duty on 25-08-2011 all of a sudden without any notice of termination and further, even after the petitioner was relieved from the service the respondent educational trust has service certificate on 14-06-2014. The further contention of the petitioner is that thereafter, the petitioner from 26-08-2011 to July, 2014 had been approaching the respondent authorities but, all the attempts of the petitioner had ended in vain and therefore, the petitioner has issued legal notice, dated 12-07-2014 but, there was no any response and later the petitioner had approached legal services authority and for the first time the respondent had raised several allegations against the petitioner and thereafter, the petitioner had approached the Labour officer conciliation for reinstatement to service and for compensation but, the said efforts also ended in failure.

7. Per contra, the contention of the respondent is that the industrial dispute raised as against the respondent is unsustainable for the reason that the Petitioner was employed at Venkateswara College of Education and though the Petitioner was appointed by the Managing Director of respondent trust on 14-02-2005 but, was transferred to Venkatesawara College of Education by the same Managing Director of respondent trust but, both institutions are separately registered legal entity with independent administration and therefore, the industrial dispute raised as against the respondent trust is not maintainable. The other contention of the respondent is that the petitioner was not terminated from service but, was relieved from the institution on his own request but, without obtaining any written letter of resignation from the petitioner and therefore, the Petitioner is trying to take advantage of the same and further, after quitting from the respondent management the Petitioner got employment in various educational and business entities by showing the Service Certificate issued by the respondent management and had worked for few months and left the job on his own accord without submitting any resignation and the petitioner is presently working at paulson's Anbu cement from 17-02-2016 and earning monthly salary of ₹ 10,000 per month. The further, contention of the petitioner is that during the tenure of the petitioner as Junior Assistant in Sri Manakula Vinayagar Medical College and Hospital the petitioner was working in the Free Pharmacy Section and it was reported by several patients and pharmacists that the petitioner was impertinent, arrogant and frowned on the patients crowding in the counter pharmacy and was not cordial with petitioner's employer and his immediate

superiors and therefore, a memorandum, dated 16-05-2008 was issued to the petitioner but, then also the Petitioner did not change his attitude and therefore, the Petitioner was transferred to a place where the interaction with people was less and thereby was transferred to Venkestwara College of Education on 17-09-2008 but, again the Petitioner did not mend his attitude and picked up quarrel with co-worker and his superior and disobeyed the orders of the Principal and similarly on 26-02-2009 the petitioner had prepared printing charges bill by enclosing duplicate bills of printing press and when the same was rejected the petitioner managed to obtain a certificate from principal stating that original bills were lost and thereafter, the printing charges bills were passed but, later it was noticed that the petitioner has recouped permanent imprest of the college with original bills and thereby the petitioner has attempted to make illegal enrichment by forgery and fudging records. The yet another contention of the respondent is that the petitioner instigated a student by name Sundari to lodge a false complaint against the Principal of Venkateswara College of Education and even stood as a witness for the false accusation and therefore, for the misconduct of the petitioner a memorandum, dated 10-08-2011 was issued but, later at the request of petitioner the management had elieved the petitioner, considering the welfare of the petitioner and his family members and subsequently out of sympathy and to help the petitioner, the respondent management had issued Service Certificate, dated 14-06-2014 to the petitioner and thereafter, the petitioner also continued to work in various educational and business establishments and subsequently suppressing all these facts has raised this industrial dispute.

8. This Court finds that the employment of petitioner in Sri Manakula Vinayagar Medical College and Hospital on 04-02-2005 and transfer of petitioner to Venkateswara College of Education and Venkateswara Teacher Training Institute on 17-09-2008 stands undisputed by both parties. In this case, the first objection of the respondent is that the very description of the respondent as private limited entity is incorrect one and the exact name of the respondent trust is Sri Manakula Vinayaga Educational Trust and therefore, the same has to be corrected by the petitioner. This Court on perusal of case records finds that as per order passed in I.A. 57/2018, dated 10-05-2018, the petitioner herein had been permitted to amend the name of the respondent trust as Sri Manakula Vinayaga Educational Trust and subsequently, the petitioner also has carried out necessary amendments thereon and further, the records reveals that the respondent herein has not challenged the Order in I.A. No. 57/2018, dated 10-05-2018 before the Hon'ble Apex

Court and hence, in the said context the above objection raised by the respondent does not hold any water.

9. The next objection of the respondent is that the petitioner was initially appointed at Sri Manakula Vinayakar Medical College and Hospital on 14-02-2005 but, later has been transferred to Venkateswara College of Education and though the Managing Director for the abovesaid two Institutions are one and the same but, the said Institutions were registered as separate legal entities with independent administration and therefore, the petitioner ought to have raised dispute as against Venkateswara College of Education and hence, the relief claimed by the petitioner as against the respondent Trust cannot be granted. This Court on perusal of Ex.P1 finds that it is an order of appointment issued by Sri Manakula Vinayagar Educational Trust for having the petitioner appointed as Junior Assistant for Sri Manakula Vinayagar Medical College and Hospital and likewise on perusal of Ex.P3 transfer Order, dated 17-09-2008, it is found that the same has been issued by Sri Manakula Vinayakar Medical College and Hospital stating that the petitioner is transferred to Venkateswara College of Education and Venkateswara Teacher Training Institute in the same capacity as given at Sri Manakula Vinayakar Medical College and Hospital. Further, the Exs.P1, P3 and P4 that is the appointment order, transfer order and relieving order is found to have been signed by one and same person in the capacity as Chairman of Sri Manakula Vinayaga Educational Trust and as Managing Director of Sri Manakula Vinayakar Medical College and Hospital and Venkateswara College of Education.

10. Thus, on perusal of Exs.P1, Ex.P3 and Ex.P4, it is found that the Managing Director for both Institutions are one and the same and it is also admitted by the respondent in the counter. Likewise on perusal of Ex.P5/ service certificate issued to the petitioner it is found that the same has been issued by Chairman and Managing Director of Sri Manakula Vinayaka Educational Trust stating that the conduct and the character of the petitioner during the tenure of his service at Sri Manakula Vinayakar Medical College and Hospital and Venkateswara College of Education was good. Thus, it is found that the service certificate stating the conduct of the petitioner during his tenure in both institutions that is for Sri Manakula Vinayakar Medical College and Hospital and Venkateswara College of Education has been issued by a common service certificate by the respondent Trust herein. Further more, the R.W.1 during his cross-examination has admitted that Sri Manakula Vinayakar Medical College and

Hospital and Venkateswara College of Education were administered by Sri Manakula Vinayaka Educational Trust. Had it been true that the two institutions are two separate legal entities with independent administration, then the respondent has failed to explain as to why the respondent educational trust has issued Ex.P5, a common service certificate to the petitioner for the services rendered at Sri Manakula Vinayakar Medical College and Hospital and Venkateswara College of Education. Hence, in the said context this Court is unable to accept the contention of the respondent that the petitioner cannot seek any relief as against the respondent educational trust but, has to seek only as against Venkateswara College of Education. Therefore, this Court holds that the contention of respondent that the industrial dispute ought to have been raised as against Venkateswara College of Education and not as against Sri Manakula Vinayaga Educational Trust is found to be untenable one.

11. Now, coming to the facts of the case, it is the contention of the petitioner that he had been working from 14-02-2005 at Sri Manakula Vinayakar Medical College and Hospital as Junior Assistant and thereafter, has been transferred to Venkateswara College of Education on 17-09-2008 and subsequently, he was relieved on 25-08-2011 without conducting any domestic enquiry or issuance of any notice of termination and further, it is the contention of the petitioner that his salary at the time of appointment was a fixed consolidated pay of ₹ 2,500 per month and did not work in the supervisory capacity in the abovesaid institutions. This Court finds that though the respondent in the counter has denied the abovesaid facts it is found that the respondent has not produced any proof to show the actual salary of the petitioner or to show that the petitioner was employed for supervisory work. Hence, in the said context this Court finds that the contention of the petitioner that his initial salary was a fixed consolidated pay of ₹ 2,500 and was a regular worker and did not work in the supervisory capacity is acceptable one and thereby the industrial dispute as raised by the petitioner is held to be sustainable one.

12. In this case, it is admitted by both parties that that the petitioner was employed at Sri Manakula Vinayagar Medical college and hospital on 04-02-2005 and later was transferred to Venkateswara College of Education and Venkateswara Teacher Training Institute on 17-09-2008 and subsequently was relieved from the service on 25-08-2011 as per Ex.P4. Further, it is the specific case of the petitioner that before issuing relieving order the respondent has neither conducted any enquiry nor issued any notice of termination. The respondent also admits that before issuance of Ex.P4 relieving order the respondent has neither conducted

any enquiry nor issued any notice of termination to the petitioner and the reason for the same as stated by the respondent is that the petitioner has committed various misconducts more particularly when the petitioner was working as Junior Assistant in Sri Manakula Vinayagar Medical College and Hospital, the petitioner was at Free Pharmacy section and at that time it was reported by several patients and pharmacists that the petitioner was impertinent, arrogant and frowned on the patients crowding in the counter pharmacy and was not cordial with petitioner's employer and his immediate superiors and therefore, a Memorandum, dated 16-05-2008 was issued to the petitioner but then also the petitioner did not change his attitude and therefore, the petitioner was transferred to a place where the interaction with people was less and thereby, was transferred to Venkateswara College of Education on 17-09-2008 but, again the petitioner did not mend his attitude and picked up quarrel with coworker and his superior and disobeyed the orders of the Principal and similarly on 26-02-2009 the petitioner had prepared printing charges bill by enclosing duplicate bills of printing press and when the same was rejected the petitioner managed to obtain a certificate from Principal stating that original bills were lost and thereafter, the printing charges bills were passed but, later it was noticed that the petitioner has recouped permanent imprest of the college with original bills and thereby, the petitioner has attempted to make illegal enrichment by forgery and fudging records and also instigated a student by name Sundari to lodge a false complaint against the Principal of Venkateswara College of Education and even stood as a witness for the false accusation and therefore, a Memorandum, dated 10-08-2011 was issued to the petitioner to submit this explanation for the said charges but later, the petitioner requested that he has to be relieved with dignity and therefore, on considering the request of the petitioner and his welfare the respondent has relieved the petitioner from his service and therefore, the petitioner is not entitled for the relief of reinstatement with back wages and with compensation.

13. The respondent to prove that complaints were given by few patients has produced Exs.R9, R10, R12 through R.W.1 and likewise has produced Ex.R11 and Ex.R15 to substantiate that Memorandum, dated 16-05-2008 and Memorandum, dated 10-08-2011 was issued to the petitioner. However, the R.W.1 during his cross-examination has deposed that the respondent has not produced any proof for having served Ex.R11 and R15 to the petitioner. Thus, in this case it is found that the respondent has miserably failed to prove that charge memo explaining the charge was issued to the petitioner and further, the petitioner was given opportunity to submit his explanation to the charge memo and thereafter, proper domestic enquiry was

conducted following the principles of natural justice. When, the petitioner had worked in the management of respondent from 14-02-2005 to 24-08-2011 then in such case Ex.P5 relieving order issued to the petitioner is nothing but, a termination simpliciter and the same is untenable one. This Court finds that even in case if, the respondent intended to take any action as against the petitioner for the misconducts alleged by the respondent, then the same ought to have been done after following the principles of natural justice. In this case the contention of the respondent that the respondent has accepted the request of the petitioner to be relieved with dignity and thereby neither enquiry was conducted nor notice of termination was issued is found to be unbelievable and unacceptable one.

14. Apart from that when the respondent contends that the petitioner has committed various misconducts as stated above then, in such case the respondent has failed to prove the same. Further more, the respondent is found to have issued service certificates Exs.P2, dated 07-03.2008 and Ex.P5, dated 14-06-2014 stating that the conduct and character of the petitioner during his service at Sri Manakula Vinayagar Medical College and Hospital and at Venkateswara College of Education was good and more particularly Ex.P5 has been issued after the petitioner was relieved from the respondent management. Had it been true that the petitioner had committed various misconducts as stated in the counter then in such case, the explanation of the respondent stating the compelling situation for issuance of Ex.P5 service certificate stating that the character and conduct of the petitioner during his service period at Sri Manakula Vinayagar Medical College and Hospital and at Venkateswara College of Education was good is found to be totally dubious and unbelievable one. Thus, this Court holds that from the evidences adduced by both sides and from the available material records, the respondent has miserably failed to prove the charges as alleged against the petitioner and thereby warranting the petitioner to be relieved from the service. Therefore, this Court from the above discussions holds the conduct of the respondent is nothing but an unfair labour practice and thereby holds that the Ex.P5 relieving order issued by the respondent is an illegal one and is liable to be set aside and holds that the petitioner is entitled for the relief of reinstatement.

15. In this case though the petitioner has denied that he was employed anywhere else after he was relieved from the respondent management but, it is found that the petitioner during his cross-examination has admitted that he had been working at VSB Paper product from 2011 to 2014 and presently working at Anbu Cement and thereby, it is found that after the

petitioner had been relieved from the respondent management, the petitioner was gainfully employed in the other establishments and thus, in the said context this Court holds that the petitioner is not entitled for any back wages. Hence, from the above discussions this Court holds that the petitioner is entitled for the relief of reinstatement without any back wages.

16. The respondent in this case has taken a plea that the respondent has lost confidence upon the petitioner on account of petitioner being arrayed as a witness in respect of a complaint given by a student as against the management and therefore even in case, the petitioner is directed to be reinstated the same would cause unnecessary embarrassment since, there is no possibility to maintain the cordiality in future. This Court finds that the petitioner during his cross-examination has admitted that he had been cited as one of the witness in the said criminal case lodged as against the respondent management. Therefore, in such context this Court finds that the contention of the respondent that the relationship between the petitioner and respondent has become strained and the respondent management has lost the confidence upon the petitioner and there is no any chance to maintain harmony in between the petitioner and the respondent management in future is found to be acceptable one. Thus, this Court holds that the respondent herein has proved a case of loss of confidence and hence, in the abovesaid discussions, this Court holds that the reinstatement of petitioner would cause embarrassment to both parties and therefore, to maintain industrial peace, this Court finds that it would be appropriate to direct the respondent to pay a lump sum amount as compensation to the petitioner.

17. This Court finds that it is not case of the petitioner or respondent that the petitioner has got well placed employment after the petitioner was relieved from the employment of the respondent. Therefore, on considering the same and the future prospectus of the petitioner and the facts and circumstances of the case, this Court finds that it would be appropriate to direct the respondent to pay compensation of ₹ 8,00,000 (Rupees eight lakhs only) to the petitioner *in lieu of* reinstatement. Thus, the dispute raised by the petitioner is justified and the points are answered accordingly. In the result, this petition is partly allowed with modification by directing the respondent to pay compensation of ₹ 8,00,000 (Rupees eight lakhs only) to the petitioner *in lieu of* reinstatement within a period of two months from today failing which the petitioner is entitled for the said amount with interest at the rate of 9% p.a. from the date of award to till the date of realisation. There is no order as to costs.

Dictated to the Stenographer, directly typed by him, corrected and pronounced by me in open Court on this the 28th day of February, 2024.

G.T. AMBIKA,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witness :

PW1 — 30-09-2019 Anandhan

List of petitioner's exhibits :

Ex.P1 — 04-02-2005 Photocopy of the Appointment Order of the Petitioner issued by the Respondent.

Ex.P2 — 07-03-2008 Photocopy of the Service Certificate issued by the Respondent.

Ex.P3 — 17-09-2008 Photocopy of the Transfer Order issued to the Petitioner.

Ex.P4 — 25-08-2011 Photocopy of the Relieving Order issued to the Petitioner.

Ex.P5 — 14-06-2014 Photocopy of the Service Certificate issued by the Respondent.

Ex.P6 — 12-07-2014 Photocopy of the Advocate Notice sent by the Petitioner.

Ex.P7 — 27-01-2015 Photocopy of the letter given by the Petitioner to the Member-Secretary, Puducherry Legal Aid Commission, Puducherry.

Ex.P8 — 08-04-2015 Photocopy of the Respondent's letter addressed to the President, Puducherry State Legal Aid Commission.

Ex.P9 — 12-10-2015 Photocopy of the Respondent letter given by the Petitioner to the Respondent.

Ex.P10 — 29-10-2015 Photocopy of the proof of delivery letter issued by the Senior Superintendent of Post Offices, Puducherry.

Ex.P11 — 16-03-2016 Photocopy of the representation submitted by the Petitioner before the Labour Officer (Conciliation), Puducherry.

Ex.P12 — 03-02-2017 Photocopy of the Failure Report given by the Labour Officer (Conciliation), Puducherry.

List of respondent's witnesses :

RW1 — 22-09-2021 Datchinamurthy

RW2 — 27-06-2022 Rajasekaran

RW3 — 12-07-2022 Prabu

List of respondent's exhibits :

Ex.R1 — 06-09-2018 Photocopy of the letter given by the Green Chemicals to the Branch Manager, Indian Bank, Koodapakkam.

Ex.R2 — 01-07-2014 Photocopy of the letter given by Chandira to the Hon'ble Chief Minister, Puducherry.

Ex.R3 — 16-08-2014 Photocopy of the letter given by the Petitioner to the Hon'ble Chief Minister, Tamil Nadu.

Ex.R4 — 21-09-2021 Letter of Authorization of Mr. T. Datchinamurthy.

Ex.R5 — 22-08-2005 Photocopy of the letter for Recognition issued by the Regional Director to Venkateswara College of Education for Recognition of B.Ed. Course.

Ex.R6 — 12-05-2006 Photocopy of the letter of permission issued by Ministry of Health and Family Welfare permitting to establish new Medical College in the name of Sri Manakula Vinayaga Educational Trust.

Ex.R7 — 13-10-2014 Photocopy of the Salary Series and credit Statement issued by VSB 08-01-2015 Paper products claiming Petitioner was working as Accountant (2 Nos.)

Ex.R8 — September Photocopy of the Attendance Series 2014 to Register of VSB Paper products February (Nos.). 2015

- Ex.R9 — 10-05-2008 Photocopy of the complaint given by one Mr. Kumar against the Petitioner.
- Ex.R10 — 13-05-2008 Photocopy of the complaint given by one Mr. Arumugam against the Petitioner.
- Ex.R11 — 16-05-2008 Photocopy of the Memorandum of warning letter issued by the Respondent to Petitioner.
- Ex.R12 — 18-07-2008 Photocopy of the complaint given by one Mr. Veerasamy against the Petitioner.
- Ex.R13 — — Cash voucher and manual note prepared by the Petitioner along with four original bills for payment (7 Nos.).
- Ex.R14 — — Manual hand written note prepared by the Petitioner with duplicate bill claiming the same are loosed and its payment note issued by the Respondent (6 Nos.).
- Ex.R15 — 10-08-2011 Photocopy of the Memorandum issued by Venkateswara College of Educational for Show Cause to the Petitioner for his various misconducts.
- Ex.R16 — 06-09-2018 Photocopy of the Salary Credit Statement issued by Green Chemicals to petition.

- Ex.R17 — 20-04-2020 Photocopy of the Application submitted by Paulsons Ltd., for reopening the unit at Sedarapet, describing Petitioner as Manager in the said Industry.
- Ex.R18 — — Photocopy of the Aadhaar Card of the Prabu.
- Ex.R19 — — Letter of Authorization of Mr. R. Prabu.

G.T. AMBIKA,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

GOVERNMENT OF PUDUCHERRY
HEALTH SECRETARIAT

(G.O. Ms. No. 18, Puducherry, dated 29th April 2024)

NOTIFICATION

On attaining the age of superannuation of 65 years, Dr. P. Udayakumar, Senior Chief Medical Officer, Government General Hospital, Karaikal, is admitted into retirement with effect from the afternoon of 30-04-2024.

(By order)

S. MURUGESAN,
Under Secretary to Government
(Health).

GOVERNMENT OF PUDUCHERRY
CHIEF SECRETARIAT
(HIGHER AND TECHNICAL EDUCATION)

(G.O. Ms. No. 11, Puducherry, dated 03rd May 2024)

NOTIFICATION

The Notice of resignation tendered by the following two (2) Assistant Professors is accepted, so as to enable them to join the new post of Assistant Professor (Law) in the Department of Law, University of Lucknow, Lucknow, with effect from the dates mentioned against each:

Sl. No.	Name of the Assistant Professor and Discipline	Institution	Date of one month notice given for resignation	Date from which the resignation is accepted
(1)	(2)	(3)	(4)	(5)
1	Dr. Rupam Lal Howlader	Dr. Ambedkar Government Law College, Puducherry.	06-03-2024	03-05-2024 (Afternoon)